

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) _____

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT D. KLINE

v.

ELITE MEDICAL LABORATORIES, INC.,
PERFORMANCE LABORATORIES, LLC,
and DR. RICHARD ARRIVIELLO, JR.,
D.O.

CIVIL ACTION

NO. _____

NOTICE OF REMOVAL

Defendant, Dr. Richard Arriviello, Jr., D.O., by and through his attorneys, Rebar Bernstiel, hereby removes this action from the Court of Common Pleas of Mifflin County, Pennsylvania to the United States District Court for the Middle District of Pennsylvania based upon Federal Question jurisdiction pursuant to 28 U.S.C. §§ 1331, 1441 and 1446. Removing Defendant provides the following short and plain statement of the grounds for removal:

1. On April 9, 2019, Plaintiff filed a Praecipe to Issue Writ of Summons in the Mifflin County Court of Common Pleas, a copy of which is attached hereto and marked as ***Exhibit "A"***.

2. The undersigned counsel entered their appearance on behalf of Removing Defendant on May 6, 2019, a copy of which is attached hereto and marked as ***Exhibit "B"***.

3. On May 31, 2019, Plaintiff filed a Complaint in the Mifflin County Court of Common Pleas against the above-named defendants, including Removing Defendant. A copy of Plaintiff's Complaint is attached hereto and marked as ***Exhibit "C"***.

4. The state court wherein this action was originally filed is in Lewistown, Mifflin County, Pennsylvania, which is within the jurisdictional district of the United States District Court for the Middle District of Pennsylvania.

5. In the Complaint, Plaintiff alleges causes of action against the named defendants based upon the Telephone Consumer Protection Act, which is found at 47 U.S.C. §227, *et. seq.* *Id. et. passim.*

6. Plaintiff has yet to properly serve the Complaint upon Removing Defendant's counsel, but a copy of the Complaint was served upon Removing Defendant on or about June 4, 2019.

7. Removing Defendant's Notice of Removal is timely pursuant to 28 U.S.C § 1446(b) because this Notice of Removal within thirty (30) days of receipt of a copy of the Complaint.

8. Removing Defendant is currently unaware if Plaintiff's Complaint has been served on the other named defendants in this matter.

9. This Court has jurisdiction over this matter under 28 U.S.C. §1331 because the present action arises under the federal Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. §227.

10. Removal is proper under 28 U.S.C. §1441(a) and (c)(A), where the Removing Defendant establishes that:

- (1) a civil action brought in a State court of which the District Courts of the United States have original jurisdiction, and
- (2) the claim arises under the Constitution, laws, or treaties of the United States, and
- (3) The United States District Court has supplemental jurisdiction over any related claims.

11. As required by § 1446(a), true and correct copies of all process, pleadings, and Orders served upon Defendant are being filed herewith.

12. Pursuant to 28 U.S.C. § 1446(d), Defendant is filing written notice of this Notice of Removal with the Court of Common Pleas of Mifflin County, Pennsylvania, concurrently with the filing of this Notice of Removal, and will serve the same Plaintiff and the other named

defendants. A copy of the Notice of Filing Notice of Removal, in the form in which it will be filed and served, is attached hereto as ***Exhibit "D"***.

13. By this Notice of Removal, Removing Defendant does not waive any objection it may have to service, jurisdiction or venue, or any other defenses or objections it may have to this action. Moving Defendant intends no admission of fact, law or liability by this Notice, and expressly reserves all defenses, motions and/or pleas.

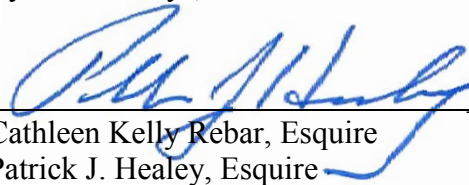
WHEREFORE, Defendant, Richard Arriviello, Jr., D.O., requests that this Court assume jurisdiction over this matter on removal from the Court of Common Pleas of Mifflin County, Pennsylvania

Dated: June 19, 2019

RESPECTFULLY SUBMITTED,

Dr. Richard Arriviello, Jr.

By his attorneys,



Cathleen Kelly Rebar, Esquire
Patrick J. Healey, Esquire
REBAR BERNSTIEL
470 Norristown Road
Suite 201
Blue Bell, PA 19422
Princeton, NJ 08540
(484) 344-5340
eFax: (484) 344-5341
Email: crebar@rebarbernstiel.com
phealey@rebarbernstiel.com


CERTIFICATE OF SERVICE

I, Patrick J. Healey, have this 19th day of June, 2019, certify that I have served a copy of the within Notice of Removal, via United States Mail, First Class, Postage Pre-Paid, on the following parties:

Robert D. Kline
2256 Fairview Road
McClure, PA 17841

Elite Medical Laboratories, Inc. c/o
Walid Diab
3330 Westbrook Road
Suwanee, GA 30024

Performance Laboratories, Inc.
c/o Registered Agents, Inc.
3030 Northwest Expressway, Suite 200B
Oklahoma City, OK 73112



Patrick J. Healey

DATE: June 19, 2019

Exhibit “A”

Robert D. Kline

PLAINTIFF

V.

Elite Medical Laboratories, Inc. Performance)
Laboratories, LLC & Dr. Richard Arriviello, Jr. D.O.)

DEFENDANTS

IN THE COURT OF COMMON
PLEAS, MIFFLIN COUNTY, PA
CIVIL ACTION - LAW
NO. CV - 2019 - 437

PLAINTIFF'S COMPLAINT

PLAINTIFF

Robert D. Kline
2256 Fairview Road
McClure, PA 17841
570-658-3448

DEFENDANTS

Elite Medical Laboratories, Inc. c/o
Walid Diab
3330 Westbrook Rd.
Suwanee, GA, 30024, USA

Performance Laboratories, LLC c/o
Registered Agents, Inc.
3030 Northwest Expressway, Ste. 200
Oklahoma City, OK 73112

Dr. Richard Arriviello, Jr. D.O.
153 Eclipse Way
Mooresville, NC 28117-6001

001-
FIVE
COURTS

2013 May 31 PM 1:14

MIFFLIN COUNTY

Robert D. Kline

PLAINTIFF

V.

Elite Medical Laboratories, Inc., Performance)
Laboratories, LLC & Dr. Richard Arriviello, Jr. D.O.)

DEFENDANTS

) IN THE COURT OF COMMON
) PEAS, MIFFLIN COUNTY, PA
) CIVIL ACTION - LAW
) NO. CV - 2019 - 437

NOTICE

You have been sued in court. If you wish to defend against the claims set forth on the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that, if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

MIDPENN LEGAL SERVICES
3 WEST MONUMENT SQUARE, SUITE 303
LEWISTOWN, PA 17044
717-248-3099

FILED
MILFORD COUNTY
2019 MAY 31 PM 1:14
CLERK OF COURTS

cancer screening tests and was mailed a writ of summons in this matter addressed to Performance Laboratories, LLC c/o, Registered Agents, Inc., 3030 Northwest Expressway, Ste. 200B, Oklahoma City, OK 73112

4. Plaintiff, upon information and belief, hereby alleges that at all times mentioned herein Defendant, Dr. Richard Arriviello, Jr. D.O. ("Arriviello") is a medical doctor that provides consultation relating to cancer screening to the other Defendants and for all times relevant herein is located at 153 Eclipse Way, Mooresville, NC 28117-6001.

5. Plaintiff believes and therefore avers that Defendants are telemarketers engaged in, inter alia, using illegal selling methods to cancer screening kits that are paid for by Medicare.

6. Defendants use various agents and subcontractors that operate call centers to telephone prospective Medicare recipients with numerous repetitive live and prerecorded (robo) calls without recipients written expressed permission.

7. Upon information and belief Plaintiff avers that Defendants operate in a civil conspiracy to accomplish their objectives and obtain fees from the U. S. Government.

8. Defendants Elite and Performance are "person(s)" as defined by 47 U. S. C. §153(39).

9. Such illegal telemarketing activities are done and described herein are in violation of 47 U.S.C. 227 et seq. which is commonly known as the Telephone Consumer Protection Act ("TCPA").

10. The phone calls that are described in Count I were placed by

Defendants, their agents, subcontractors or employees to Plaintiff do not follow the guidelines that are listed on the National "Do not call" registry "DNC".

11. Plaintiff avers that more specifically Defendants and/or their agents use ("ATDS") type equipment to do telemarketing which has the capacity—(1) to store numbers to be called or (2) to produce numbers to be called, using a random or sequential number generator—and to dial such numbers automatically (even if the system must be turned on or triggered by a person) which enables them to make automatic calls to potential clients.

12. The phone calls placed by Defendants and/or their agents, subcontractors, employees described in Count I were placed to Plaintiff's phone and the TCPA provides a private cause of action to persons who receive calls in violation of any of the implementing regulations codified in 47 C.F.R. 64.1200.

13. Plaintiff avers that, since all Defendants use and support other agents which regularly use illegal phone solicitation via ATDS machines and prerecorded calls as well as violate the DNC, all of which they know or should know are done without permission of the person called and thus they have willfully engaged in illegal activities under the TCPA.

14. Plaintiff believes and therefore avers Defendants' agents and officers as well as Arriviello engage in ultra vires activities as described above, they are not protected by the corporate veil of any corporate entity they may work for and thus they are personally liable for their own illegal actions when they violate the TCPA.

16. Plaintiff avers that he is not and was not a customer of the Defendants

prior to the phone calls described below. Plaintiff further avers that he has never given his expressed written permission for Defendants or their agents to call him at any time prior to the filing of this Complaint nor has he waived the protections of the DNC.

17. When Congress enacted the TCPA, they found, *inter alia*, that automated calls and prerecorded messages are a "nuisance," and an "invasion of privacy," and that the phone subscriber may have to pay for each call.

18. Plaintiff avers that the TCPA legislation was enacted to suppress illegal telemarketing calls that are like the call that is pleaded herein as well as punish those who make them by allowing a private right of action that provides a statutory fine for the benefit of those affected.

19. Defendants' or their agent's phone calls constitute calls that was not for an emergency purpose as illuminated in 47 U.S.C. §227 et seq.

COUNT I
(Knowing and/or Willful Violation of the TCPA
"Sales Call/DNC" Prohibition, 47 U.S.C. § 227 et seq.)

20. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully set forth herein.

21. In March and April of 2019 Plaintiff received at least 15 calls on his cell phone from a foreign sounding individual relating to cancer screening that was working from a "boiler room" type operation.

22. When Plaintiff answered the above referenced calls the agents asked medical type questions and then transferred Plaintiff to other agents to ask

specific family cancer history type questions.

21. Plaintiff was then transferred to agents of Defendants that advised Plaintiff that a cancer screening test would be mailed to him.

23. Plaintiff avers that the TCPA at 47 U.S.C. §227(c)(3)(F) and 47 C.F.R. 4.1200(c)(2) provides for treble damages for willfully violating the DNC provisions of the TCPA and given the numerosity of the calls they were made willfully.

24. Plaintiff avers that the calls described herein this Court were made willfully or knowingly as well as the fact that there were many more than two calls made within a 12 month period which violates the DNC provisions of the TCPA.

25. Plaintiff avers that there were at least 10 calls and that he is entitled to \$1500.00 for each and every call, pursuant to 47 U.S.C. §227(c)(5) for a total of \$15,000.00.

WHEREFORE, PLAINTIFF demands judgment against Defendants in the amount of Fifteen Thousand Dollars (\$15,000.00) plus the costs of this action as well as One Thousand Five Hundred Dollars (\$1500.00) for each additional call that is revealed through discover.

Respectfully submitted.



Robert D. Kline
2256 Fairview Road
McClure, PA 17841
Plaintiff pro se
570-658-3448

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provision of the Public Access Policy of the Unified Judicial System of Pennsylvania; Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents

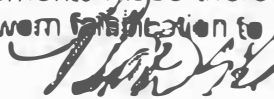


Robert D. Kline, J. D. - Plaintiff
2256 Fairview Road
McClure, PA 17841
570-658-3448

May 31, 2019

VERIFICATION

The undersigned verifies that the statements he made in the foregoing Plaintiff's Complaint are true and correct to the best of his knowledge, information and belief and I understand that statements made there are subject penalties of 18 Pa. C. S. A. § 4904 relating to unsworn falsification to authorities.



Robert D. Kline, J. D. - Plaintiff
2256 Fairview Road
McClure, PA 17841
570-658-3448

May 31, 2019

FILED
MIFFLIN COUNTY
2019 MAY 31 PM 1:14
PROthonotary
CLERK OF COURT

CERTIFICATE OF SERVICE

On May 31, 2019, I Robert D. Kline, Plaintiff herein served a copy of Plaintiff's Complaint on defendants listed below via U. S. Mail, postage paid addressed as follows:

Elite Medical Laboratories, Inc. c/o
Walid Diab
3330 Westbrook Rd.
Suwanee, GA, 30024, USA

Performance Laboratories, LLC c/o
Registered Agents, Inc.
3030 Northwest Expressway, Ste. 200B
Oklahoma City, OK 73112

Dr. Richard Arriviello, Jr. D.O.
153 Eclipse Way
Mooresville, NC 28117-6001



Robert D. Kline, J. D. - Plaintiff
2256 Fairview Road
McClure, PA 17841
570-658-3448

FILED
MIFFLIN COUNTY
2019 MAY 31 PM 1:14
VIRGINIA JUDICIAL SYSTEM
CLERK OF COURTS

Exhibit “B”

Robert D. Kline

PLAINTIFF

V.

Elite Medical Laboratories, Inc., Performance)
Laboratories, LLC & Dr. Richard Arriviello, Jr. D.O.)

DEFENDANTS

IN THE COURT OF COMMON
PLEAS, MIFFLIN COUNTY, PA
CIVIL ACTION - LAW
NO. CV - 2019 - 437

PRAECIPE TO ISSUE WRIT OF SUMMONS

TO THE PROTHONOTARY:

Please issue a writ of summons in the above case to all defendants whose addresses are as follows:

Elite Medical Laboratories, Inc. c/o
Walid Diab
3330 Westbrook Rd.
Suwanee, GA. 30024, USA

Performance Laboratories, LLC c/o
Registered Agents, Inc.
3030 Northwest Expressway, Ste. 200B
Oklahoma City, OK 73112

Dr. Richard Arriviello, Jr. D.O.
153 Eclipse Way
Mooresville, NC 28117-6001

FILED
MAFFLIN COUNTY
2019 APR -9 PM 2:03
PROTHONOTARY
CLERK OF COURTS

Summonses shall be forwarded to Robert D. Kline, J. D., 2256 Fairview Road, McClure, PA 17841, who will have service arranged consistent with the rules.

Paul D. Mc

Robert D. Kline, J. D.
2256 Fairview Road
McClure, PA 17841
Telephone 570-658-3448

April 9, 2019

Robert D. Kline

PLAINTIFF

V.

Elite Medical Laboratories, Inc., Performance)
Laboratories, LLC & Dr. Richard Arriviello, Jr. D.O.)

DEFENDANTS

IN THE COURT OF COMMON
PLEAS, MIFFLIN COUNTY, PA
CIVIL ACTION - LAW
NO. CV - 2019 - 437

FILED
MAIFLIN COUNTY
2019 APR -9 PM 2:03
PROTHONOTARY
CLERK OF COURTS

WRIT OF SUMMONS

To: Elite Medical Laboratories, Inc., Performance Laboratories, LLC &
Dr. Richard Arriviello, Jr. D.O.

YOU ARE NOTIFIED THAT THE ABOVE-NAMED PLAINTIFF HAS COMMENCED A CIVIL ACTION AGAINST YOU.

Prothonotary/Clerk, Civil Div.

Holly Synson, Deputy

Deputy

April 9, 2019

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provision of the Public Access Policy of the Unified Judicial System of Pennsylvania; Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents



Robert D. Kline, J. D. - Plaintiff
2256 Fairview Road
McClure, PA 17841
570-658-3448

April 9, 2019

Exhibit “C”

REBAR BERNSTIEL

By: Cathleen Kelly Rebar/Patrick J. Healey
I.D. No.: 82872/63155
470 Norristown Road, Suite 201
Blue Bell, PA 19422
484-344-5340
Email: crebar@rebarbernstiel.com
phealey@rebarbernstiel.com

Attorney for Defendant, Dr. Richard
Arriviello, Jr., D.O.

ROBERT D. KLINE

v.

ELITE MEDICAL LABORATORIES, INC.,
PERFORMANCE LABORATORIES, LLC,
and DR. RICHARD ARRIVIELLO, JR., D.O.

COURT OF COMMON PLEAS OF
MIFFLIN COUNTY

No. CV-2019-437

Jury Trial Demanded

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

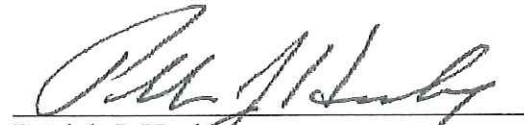
Kindly enter our appearance on behalf of Defendant, Dr. Richard Arriviello, Jr., D.O. A
jury of 12 is demanded.

REBAR BERNSTIEL

By:


Cathleen Kelly Rebar

By:


Patrick J. Healey

DATE: May 2, 2019

FILED
MIFFLIN COUNTY
2019 MAY -6 AM 11:21
PROTHONOTARY
CLERK OF COURTS

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

REBAR BERNSTIEL

By: 

Cathleen Kelly Rebar, Esquire

Patrick J. Healey, Esquire

Attorneys for Defendant, Dr. Richard Arriviello, Jr., D.O.

Date: May 2, 2019

FILED
MIFFLIN COUNTY
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CLERK OF COURTS

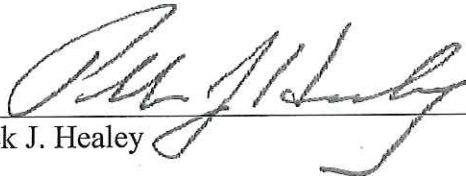
CERTIFICATE OF SERVICE

I, Patrick J. Healey, have this 2nd day of May, 2019, certify that I have served a copy of the within document, via United States Mail, First Class, Postage Pre-Paid, on the following counsel and parties:

Robert D. Kline
2256 Fairview Road
McClure, PA 17841

Elite Medical Laboratories, Inc. c/o
Walid Diab
3330 Westbrook Road
Suwanee, GA 30024

Performance Laboratories, Inc.
c/o Registered Agents, Inc.
3030 Northwest Expressway, Suite 200B
Oklahoma City, OK 73112



Patrick J. Healey

DATE: May 2, 2019

FILED
MAFFLIN COUNTY
2019 MAY -6 AM 11:21
PROTHONOTARY
CLERK OF COURTS

Exhibit “D”

REBAR BERNSTIEL

By: Cathleen Kelly Rebar/Patrick J. Healey
I.D. No.: 82872/63155
470 Norristown Road, Suite 201
Blue Bell, PA 19422
484-344-5340
Email: crebar@rebarbernstiel.com
phealey@rebarbernstiel.com

Attorney for Defendant, Dr. Richard
Arriviello, Jr., D.O.

ROBERT D. KLINE

v.

ELITE MEDICAL LABORATORIES, INC.,
PERFORMANCE LABORATORIES, LLC,
and DR. RICHARD ARRIVIELLO, JR., D.O.

COURT OF COMMON PLEAS OF
MIFFLIN COUNTY

No. CV-2019-437

Jury Trial Demanded

NOTICE OF THE FILING OF A NOTICE OF REMOVAL

**TO: Prothonotary
Mifflin County Court of Common Pleas
20 N. Wayne St.
Lewistown, PA 17044**

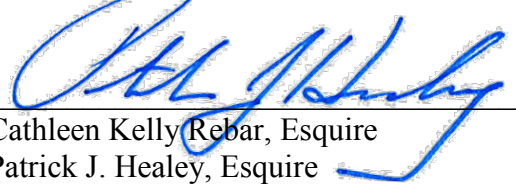
PLEASE TAKE NOTICE that Defendant, Dr. Richard Arriviello, Jr., D.O., upon the filing of this Notice, effected Removal pursuant to 28 U.S.C. §1331 and §1441. A copy of the Notice of Removal filed with the Middle District of Pennsylvania is attached as ***Exhibit "A"***.

PLEASE TAKE FURTHER NOTICE that, upon the filing of the Notice of Removal with the Clerk of the United States District Court for the Middle District of Pennsylvania, and filing copies thereof with the Prothonotary for the Court of Common Pleas of Mifflin County,

Defendant, Dr. Richard Arriviello, Jr., D.O., has effected Removal and this Court shall proceed no further in this action unless and until the case is remanded pursuant to 28 U.S.C. §1446.

REBAR BERNSTIEL

By:



Cathleen Kelly Rebar, Esquire

Patrick J. Healey, Esquire

Attorneys for Attorney for Defendant, Dr.
Richard Arriviello, Jr., D.O.

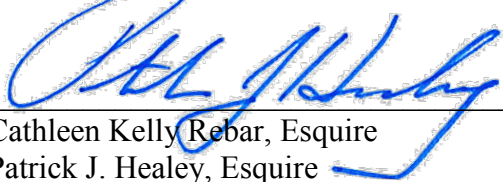
Date: June 20, 2019

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

REBAR BERNSTIEL

By:



Cathleen Kelly Rebar, Esquire

Patrick J. Healey, Esquire

Attorneys for Defendant, Dr. Richard Arriviello, Jr., D.O.

Date: June 20, 2019

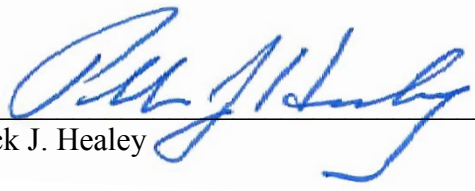
CERTIFICATE OF SERVICE

I, Patrick J. Healey, have this 20th day of June, 2019, certify that I have served a copy of the within document, via United States Mail, First Class, Postage Pre-Paid, on the following counsel and parties:

Robert D. Kline
2256 Fairview Road
McClure, PA 17841

Elite Medical Laboratories, Inc. c/o
Walid Diab
3330 Westbrook Road
Suwanee, GA 30024

Performance Laboratories, Inc.
c/o Registered Agents, Inc.
3030 Northwest Expressway, Suite 200B
Oklahoma City, OK 73112



Patrick J. Healey

DATE: June 20, 2019